

DRAFT
ORDINANCE NO. XX-2013

**AN ORDINANCE OF THE CITY OF FREMONT AMENDING
FREMONT MUNICIPAL CODE REGULATIONS PERTAINING
TO SIGNS ON PRIVATE PROPERTY**

THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC TITLE 18, CHAPTER 18.193, REPEALED AND REPLACED.

Fremont Municipal Code Title 18 (Planning and Zoning), Chapter 18.193 (Signs), is repealed and replaced as follows:

“CHAPTER 18.193. REGULATION OF SIGNS ON PRIVATE PROPERTY

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ARTICLE 1. ADMINISTRATION

Sec. 18.193.010. Title.

This chapter may be referred to and cited as the Private Property Sign Ordinance of the City of Fremont.

Sec. 18.193.020. Authority.

This chapter is authorized by the California Constitution, Chapter XI, Section 7; California Government Code sections 65000 et seq., 65850(b), 38774, 38775, Business and Professions Code sections 5200 et seq. and 5490 et seq., Civil Code section 713, Penal Code 556, and other applicable state laws.

Sec. 18.193.030. Regulatory scope.

(a) This chapter regulates signs that are mounted or displayed on private property within the city. It also regulates signs mounted or displayed on land or facilities owned by public entities other than the city, when the city has and chooses to exercise land use regulatory power over such lands and facilities of the public entities.

(b) This chapter does not regulate signs mounted or displayed on city property, in the public right of way, or used in conjunction with parades, outdoor public assemblies, demonstrations and street closures. Such signs are regulated by Chapter 18.194.

Sec. 18.193.040. Purposes.

This chapter creates a comprehensive and balanced system of sign regulation which will facilitate communication by sign and simultaneously serve public interests, including but not limited to the following:

(a) Free Speech. To accommodate and encourage the right of free speech by sign display, while balancing this right against other public interests.

(b) Public Health and Welfare. To serve the public health, safety, and welfare through appropriate prohibitions, regulations, and controls on the design, location, and maintenance of signs.

(c) General Plan. To implement the sign-related goals, purposes and strategies of the city's General Plan.

(d) Regulation System. To establish a comprehensive and reasonable system for regulating signs integrated within the zoning code.

(e) Notice. To provide public notice of rights and responsibilities related to sign display.

(f) Equal Rights. To ensure that similarly situated persons have equal rights and responsibilities regarding sign display.

(g) Community Aesthetics. To serve the aesthetic interests of the city by minimizing visual clutter which can be caused by excessive signs.

(h) Visibility. To relate sign area and height to viewing distance and optical characteristics of the eye.

(i) Safety. To reduce safety hazards to drivers and pedestrians by minimizing the view obstruction, distraction, and confusion that can result from inappropriate or improperly placed signs.

(j) Structural Integrity. To minimize safety risks by ensuring structural integrity and proper maintenance of signs.

(k) Residential Tranquility. To protect the peaceful, quiet, residential nature of neighborhoods from intrusion or degradation by excessive commercial signage.

(l) Compatibility. To ensure that sign structures are physically compatible with the surrounding area.

(m) Property Values. To protect and enhance property values by minimizing signs that contribute to the visual clutter of the streetscape, such as oversized signs and excessive temporary signage.

(n) Economic Value. To enhance the economic value of the city and each area therein by setting reasonable rules regarding sign size, location, design and illumination.

(o) Information. To serve the public convenience by providing for directional and functional information on signs.

Sec. 18.193.050. Administration and enforcement authority.

The zoning administrator is authorized to administer and enforce the provisions of this chapter.

Sec. 18.193.060. Regulatory interpretations.

All regulatory and administrative interpretations of this chapter are to be exercised in light of the city's message neutrality and message substitution policies as set forth in Section 18.193.080. Where a particular type of sign is proposed in a permit application, and the type is neither expressly allowed nor prohibited by this chapter, or whenever a sign does not qualify as a "structure" as defined in the zoning code or the building code, then the zoning administrator shall approve, conditionally approve or disapprove the application based on the most similar sign type that is expressly regulated by this chapter, in light of the policies stated in this article.

Sec. 18.193.070. Discretionary approvals; evaluation standard.

Whenever any sign permit, Master Sign Program, variance, conditional use permit, zoning

administrator permit, or planning entitlement, or other sign-related decision is made by any exercise of official discretion, such discretion shall be exercised only as to the non-communicative aspects of the sign, such as size, height, orientation, location, setback, illumination, spacing, scale and mass of the structure, compatibility with the surrounding area, etc.

Sec. 18.193.080. Message neutrality.

(a) The owner of any sign which is otherwise allowed by this chapter may substitute any constitutionally protected noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular protected noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary.

(b) Message substitution under this section does not:

- (1) Create a right to increase the total amount of signage on a parcel, lot or land use;
- (2) Affect the requirement that a sign structure or mounting device be properly permitted under the building code;
- (3) Allow a change in the physical structure of a sign or its mounting device; or
- (4) Authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message.

(c) Message substitution is a continuing right that may be exercised any number of times. Substitution of message applies to the whole or any part of any legally existing sign display area. The substitution right applies to the sign owner and to any other message sponsor displaying any image on the sign with the owner's consent, regardless of whether a fee or any other consideration is given for the display.

Sec. 18.193.090. On-site and off-site distinction.

The distinction between on-site (or on-premise) and off-site (or off-premise) within this chapter applies only to commercial speech messages.

ARTICLE II. GENERAL REGULATORY PROVISIONS

Sec. 18.193.100. Applicability and primacy.

The provisions of this article apply to all signs within the regulatory scope of this chapter, and override provisions to the contrary which may be found within this code.

Sec. 18.193.110. Permit requirement.

No person may mount, construct, or display a sign without a valid sign permit unless the subject sign is expressly exempted from the permit requirement by this chapter. The sign owner and message sponsor and the property owner must satisfy all other applicable permit and planning approval requirements, even if the sign is exempt from the city's sign permit requirement.

Sec. 18.193.120. Rules pertaining to structural, non-communicative aspects of signs.

All rules and regulations concerning the non-communicative aspects of signs, such as location, size, height, illumination, spacing, orientation, etc., are enforceable independently of any permit or approval process.

Sec. 18.193.130 Applicability of rules to mixed-use projects.

In any land use designation where both residential and non-residential land uses are allowed, the sign-related rights and responsibilities applicable to any particular parcel or land use are as follows: residential uses are treated as if they were located in a residential land use designation where that particular residential use would be allowed as a matter of right, and non-residential uses are treated as if they were located in a non-residential land use designation where that particular use would be allowed, either as a matter of right or subject to a conditional use permit or other discretionary process.

Sec. 18.193.140. Legal nature of sign rights and duties.

As to all signs attached to real property, the signage rights, duties and obligations arising from this chapter run with the property on which a sign is mounted or displayed. This section is not intended to modify or affect the law of fixtures, ownership of sign structures, or sign-related provisions in private leases so long as they are not in conflict with this chapter or other law. This section is not intended to prevent or impede a sign owner from removing a sign structure from a given location and installing it in another location, so long as all permit requirements applicable to the new location are satisfied.

Sec. 18.193.150. Owner's consent.

No sign may be placed on private property without the consent of the legal owner of the property and persons holding the present right of possession and control (e.g., tenant or leaseholder).

Sec. 18.193.160. Responsibility for compliance.

The responsibility for compliance with this chapter rests jointly and severally upon the sign owner and/or sponsor, all parties holding the present right of possession and control (e.g., tenant or leaseholder) of property whereon a sign is located, and the legal owner of the lot or parcel, even if the sign was mounted, erected, or displayed without the owner's consent or knowledge.

Sec. 18.193.170. Prospective regulation.

This chapter applies only to signs whose structure or housing is affixed to its intended premise after the date on which this chapter takes effect. However, this provision does not legalize signs which were originally installed without full compliance with all then-applicable laws.

Sec. 18.193.180. Sign types.

Sec. 18.193.190. Prohibited signs.

(a) Wall-mounted digital signs, A-frames, bunting, pennants, balloons, commercial mascots, portable signs, hand-held signs and other similar devices are prohibited.

(b) Billboards. The construction, erection or use of new billboards, as defined in 18.193.780, is prohibited. Billboard vehicles, as defined in 18.193.780, are prohibited on city streets or public parking spaces. This section does not affect existing, legal billboards, or prevent relocation agreements, as authorized by Business and Professions Code Section 5412, so long as such agreements are not contrary to other applicable law. Existing legal non-conforming billboards may not be enlarged or converted to digital display. This section does not apply to freeway-oriented freestanding signs in redevelopment project areas, when such signs are used to display noncommercial messages or commercial messages pertaining to establishments located within the same redevelopment project area. Violation of this section is declared to be a public nuisance which may be abated by any method authorized by law.

In adopting these "no new billboards" and "no billboard vehicles on city streets or public parking spaces" provisions, the city council affirmatively declares that it would have adopted such rules even if they were the only provisions in this chapter. The city council intends for this billboard policy to be severable and separately enforceable even if other provision(s) of this chapter may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid or unenforceable.

Sec. 18.193.200. Exempt signs

The following signs types are allowed in any land use designation without a sign permit. These signs must comply with all applicable rules and structural and locational rules and requirements, and as otherwise provided herein.

- (a) Memorial tablets, plaques or signs;
- (b) Signs required by law or governmental order, rule, or regulation, with a total surface area not exceeding ten square feet on any lot or parcel, unless some other size rule applies by another body of law;
- (c) Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties;
- (d) Signs located inside a building or structure, provided the sign is neither attached to

windows with its sign copy visible from the outside, nor otherwise so located inside as to be conspicuously visible and readable, without intentional and deliberate effort, from outside the building or structure;

(e) Building occupant identification signs painted or affixed on doors or windows providing information such as occupant name, hours of operation, and telephone number in non-illuminated lettering not exceeding two inches in height and not exceeding a total of two square feet in sign area on each door or window per building frontage;

(f) Courtesy signs; (g) On-site advisory and warning signs less than two square feet in area unless required to be larger by state or federal law; and

(h) Development review courtesy notices required by the City to be placed on a property that is proposed for development or other land use entitlement.

18.193.205 Nonconforming signs

(a) Existing signs. All nonconforming signs (including but not limited to billboards) lawfully existing as of January 1, 1958 may be continued in use without expansion, alteration or other substantial change, until any of the following occur:

- (1) The sign is voluntarily removed or relocated;
- (2) The sign is damaged or partially destroyed by any means;
- (3) The property is developed or redeveloped with new structures or additions to existing structures that exceed 25% of the existing building floor area; or
- (4) The size or configuration of a lot is changed by the subdivision of the property.

Upon the occurrence of any of the events described in this subsection (a), all nonconforming signs shall be brought into compliance with the provisions of this title except that signs existing with a valid sign permit may be maintained and repaired as long as the ordinary maintenance and repair does not result in any substantial change in the configuration of the sign cabinet, if any, or other structural components of the sign.

(b) Signs for nonconforming use. The provisions of this section shall not apply to signs and structures which are related to a lawful nonconforming use which is allowed to continue pursuant to other provisions of this title, provided that the sign conforms to the regulations of the district in which it is located or conforms with the following requirements:

- (1) no sign shall exceed 24 square feet in area;
- (2) the height of any sign located in the required front yard area shall not exceed six feet above finished grade; and
- (3) no additional sign(s) will be allowed on the site if the existing sign(s) exceed the total Basic Permittable Area (BPA) permitted.

(c) Directional sign(s) pertaining to historic resources. The provisions of this section shall not apply to existing directional sign(s) pertaining to officially designated historic resources. Any new directional sign(s) which are designed and located so as to be readable from state and federal highways and which pertain to officially designated historic resources shall be subject to all applicable state regulations.

ARTICLE III. PERMIT PROCEDURES, APPEALS, AND RELATED MATTERS

Sec. 18.193.210. Applicability.

This article applies to all signs for which a permit is required. The internal review and appeal procedures apply to all sign-related decisions made by the zoning administrator or city, including, but not limited to, removal orders, revocation of permits, orders to abate, etc.

Sec. 18.193.220. Sign permit generally required; permit tag required.

A separate sign permit is required for each and every sign, except as otherwise provided in this chapter. No person shall locate, mount, erect, install, display or maintain any sign unless a permit is issued for the location and maintenance of such sign. A tag issued by the city indicating the sign permit number shall be affixed to the sign so as to be readily visible to inspectors of the city.

Sec. 18.193.230 Building permit required in certain instances.

A building permit is required for all freestanding signs and flag poles qualifying as structures under the building code and any signs permanently mounted or fastened to a building and any sign that requires an electrical connection for illumination.

Sec. 18.193.240. Changes to permitted signs; requirement for amended or new permit.

A sign initially approved and for which a permit tag is issued shall not thereafter be modified, altered or replaced, nor shall any design elements of any building or lot upon which such sign is maintained be modified, altered or replaced if the physical design elements constituted a basis for the sign approval, without an amended or new permit first being obtained pursuant to this chapter. If the original permit did not contain physical design elements, and only the copy or graphic design on the display face is changed, a new or amended permit is not required. If the physical structure of a permitted sign is changed, whether by repair, alteration, expansion, change in electrical supply, change in physical method of image presentation, change in dimension or weight, or similar factors, then a new permit or amendment to the existing permit is required.

Sec. 18.193.250. Application, fee, and accompanying material.

An application for a sign permit shall be made in writing on a form prescribed by the zoning administrator and shall be accompanied by the required fee, in an amount established by city council resolution from time to time. The applicant shall submit plans, drawings and other supporting data as determined necessary by the zoning administrator. The zoning administrator shall establish and maintain a submittal requirement checklist for sign permit applications.

Sec. 18.193.260. Application review, timeframes.

(a) Zoning administrator approval is required in connection with the issuance of all sign permits and Master Sign Programs, pursuant to the provisions of this chapter except for signs subject to review and approval of the city council, planning commission or historical architectural review board (HARB). The zoning administrator may refer signs or Master Sign Programs to the HARB or planning commission for review and approval.

(b) Conditional Approval. A sign permit application may be approved subject to conditions, so long as the purpose of the conditions is to satisfy requirements of this chapter or some other applicable law, rule or regulation or General Plan policy.

(c) Inspections. All signs subject to a building permit require final inspection and approval by the Building Division.

(d) Permit Denials. All sign permit denials shall be in writing, state the grounds for denial, and be sent or delivered to the address shown on the application.

(e) Time Limits. Signs subject to approval at the staff level shall be reviewed and acted upon within 30 calendar days of the application being deemed complete. For projects requiring HARB, planning commission or city council review, the application will be scheduled for the next available agenda that provides adequate time for report preparation and noticing, but in any event within 60 calendar days of the application being deemed complete. Upon conclusion of the final hearing, the application shall be acted upon within 30 days. The timely decision requirement may be waived by the applicant. If a written decision is not rendered within the required time, then the application shall be deemed denied.

Sec. 18.193.270. Processing of applications.

(a) Completeness. Within thirty calendar days of initial submission, the zoning administrator shall determine whether the application contains all the information and items required by this chapter and other applicable law. If the application is incomplete, the applicant shall be so notified in writing, stating the reasons therefore and specifically listing any and all additional information necessary to render the application complete. The applicant shall then have one opportunity, within 30 calendar days, to submit the necessary information to render the application complete; failure to do so within the 30 day period shall render the application void. Submission of information to render the application complete does not require that the application fee be paid again.

(b) Disqualification. Sign permit applications will not be approved under any of the following circumstances:

- (1) Uncured Violation of Sign Rules: No sign permit will be approved if a sign has been installed in violation of the provisions of this chapter and, at the time of submission of the application, each illegal sign has not been legalized, removed or a cure included in the application.
- (2) Other Code Violations: No sign permit will be approved if there is any other

existing zoning code violation(s) located on the site of the proposed sign(s) (other than an illegal or nonconforming sign that is not owned or controlled by the applicant and is located at a different business location on the site from that for which the approval is sought) which has not been cured at the time of the application, unless the noncompliance is proposed to be cured as part of the proposed new sign.

- (3) Previous Denial: No sign permit will be approved if the sign approval application is substantially the same as an application previously denied, unless either 12 months have elapsed since the date of the last application, or the applicant provides new evidence or proof of materially changed conditions, or the reasons for the earlier denial have been cured or will be cured as part of the new application.
- (4) Failure to Obtain Zoning Permits: No sign permit will be approved if the applicant has not obtained any other applicable required zoning permits.
- (5) Outstanding Unpaid Balance: No sign permit will be approved if the applicant or property owner has an outstanding unpaid balance for prior city development review services.

(c) Multiple Signs Application. When an applicant proposes two or more signs, the application may be granted either in whole or in part, with separate decisions as to each proposed sign. When an application is denied in whole or in part, the decision maker's written notice of decision shall specify the grounds for such denial.

Sec. 18.193.280. Revocation or cancellation.

(a) Non-compliance. The zoning administrator shall revoke any approval or sign permit upon refusal of the holder thereof to comply with the provisions of the permit or this chapter, after written notice of noncompliance and an opportunity to cure of not more than 30 calendar days. The time delay and opportunity to cure does not apply when the sign, by virtue of its physical condition, constitutes an immediate and significant threat to public safety.

(b) Permits Issued in Error. Any approval or sign permit issued in error may be summarily revoked by the zoning administrator upon written notice to the holder of the reason for the revocation. Upon such revocation, the applicant must apply anew for a sign permit or remove the sign.

Sec. 18.193.290. Appeals.

(a) Sign permit applicants whose application is denied in whole or in part, or subject to conditions they consider to be improper, may appeal the decision. The appeal right arises at the earlier of: 1) the date of delivery to the applicant of a written notice of decision; or 2) the time for decision has run without a written decision and without a waiver of the time requirement. In this context, "delivered" means personally delivered or placed in the U.S. mail, whichever occurs first. Written notice of appeal shall be delivered to the secretary of the planning commission, stating in plain terms the matter appealed from and the grounds for

appeal.

(b) The applicant may appeal any sign permit decision or appeal to the next level of review, pursuant to the procedures set forth in FMC Chapter 18.283.

(c) During the review and/or appeal process, the present condition(s) of the subject sign(s) shall be maintained, except when a sign, by virtue of its physical condition, constitutes a significant and immediate threat to public safety.

(d) Time limits for decision upon appeal. At each level of appeal, the decision of the appellate body shall be rendered in writing. Appeals will be scheduled for the next available agenda that provides adequate time for report preparation and noticing, but in any event within 60 calendar days of receipt of notice of appeal. Time for decision may be waived by the appellant.

Sec. 18.193.300. Judicial review.

Following final decision by the city council, any concerned person may seek judicial review of the final decision on a sign permit application pursuant to California Code of Civil Procedure section 1094.5, 1094.6 or 1094.8, as applicable. Judicial review must be filed within the time limits specified by the applicable provisions of California law.

ARTICLE IV. STANDARDS APPLICABLE TO ALL SIGNS

Sec. 18.193.310. Maintenance.

All signs must be maintained in good working order, with no exposed electrical wires; free of chipped, cracked, faded or peeling paint; securely attached to the mounting surface; guy wires and mounting struts securely fastened and not corroded or rusted; with all lights and lighting in proper working order.

Sec. 18.193.320 Summary removal - public safety.

When any sign poses an immediate and significant threat to the public safety, by virtue of its physical condition, it may be summarily removed or the danger remedied by the city, and the cost thereof charged to the sign owner or property owner.

Sec. 18.193.330 Materials.

All external signs intended for display for a period over 45 days shall be made of sturdy, durable materials. Paper, cardboard and other materials subject to rapid deterioration shall be limited to temporary signs.

Sec. 18.193.340 Clearance from utilities.

Signs and their supporting structures shall maintain clearance from and not interfere with electrical conductors, communications equipment or lines, surface and underground facilities and conduits for water, sewage, gas, electricity and communications equipment or lines.

Signs shall not be placed in public utility easements unless express written permission is obtained from the affected public utility. All signs shall maintain clearance from energized electric power lines as prescribed by the California Public Utilities Code, the regulations of the California Public Utilities Commission, and the orders of the California Division of Industrial Safety, as now in force and as hereafter amended. Signs mounted on private property may project into or above public property or the public right-of-way only pursuant to an encroachment permit.

Sec. 18.193.350 Location and safety.

No sign may be placed or located in such a manner as to constitute a safety hazard or to impede the public use of the public right-of-way, by factors such as sight distance, tripping hazard, overhead hazard, etc.

Sec. 18.193.360 Sidewalks.

No sign shall be mounted or displayed in such a manner that it blocks or impedes the normal pedestrian use of public sidewalks; a minimum of four feet sidewalk width clearance shall be maintained at all times.

Sec. 18.193.370 Traffic and intersections.

Signs erected or maintained at or near any street intersection may not obstruct the free and clear vision of drivers and pedestrians. Other than traffic control signals, no sign shall be installed in the visibility triangle at intersections.

Sec. 18.193.380 Traffic confusion.

No sign may be mounted or displayed when, by reason of position, shape or color or image, it may be confused with authorized traffic signs or signals.

Sec. 18.193.390 Exits and entrances.

No sign may be placed, mounted, erected or installed in any manner which obstructs the use of any door, window or fire escape.

Sec. 18.193.400 Mounting.

All permanent signs shall be firmly anchored, shall comply with all requirements for public safety, and shall satisfy all applicable safety codes (building, electrical, plumbing, etc.) and all other applicable governmental enactments, rules, regulations, or policies.

Sec. 18.193.410 Prohibited mountings and locations.

(a) Public Right-of-Way. Other than official government signs or warning signs required by law, no sign shall be placed in median strips or islands, on retaining walls, bridges, benches, traffic signals, poles or utility equipment, street lighting, or utility poles or on traffic signs or traffic sign posts or supporting structures, or on utility poles or anchor wires or guy

wires.

(b) Trees and Other Vegetation. No sign shall be affixed to or cut into any tree or other living vegetation.

(c) Terrain. No sign may be cut, burned, marked or in any other manner displayed on a cliff or hillside with the exception of the existing Niles hillside sign.

Sec. 18.193.420) Sound, smoke, and vapors.

No sign may emit any sound, or emit smoke or vapors.

Sec. 18.193.430 Lighting.

(a) Flashing, Blinking. No sign shall flash, blink, or emit a varying intensity of light or color.

(b) Light Sources. Light sources shall be concealed or shielded to prevent or minimize light spillage, glare, momentary blindness, or other annoyance, disability or discomfort to persons of ordinary sensibilities within the view of such light sources. Illuminated signs located adjacent to any residential area shall be shielded to direct light downward and away from adjacent properties such that there is no spillover light and shall be controlled by a rheostat or functional equivalent to avoid excessive glare to residential properties.

(c) Light Intensity. No sign shall be illuminated so that the primary source of the light is visible beyond the property line or in any way will cause excessive glare or brightness. The city reserves the right to require and/or complete a post-installation inspection of the sign illumination. If, as a result of this inspection, it is determined that the illumination is so bright as to adversely impact adjacent properties and uses, the city shall require a reduction and/or adjustment in the intensity of the sign illumination, so that it is in keeping with the general level of illumination on surrounding properties. Such intensity restriction may vary by time of day and ambient light conditions.

(d) Exposed Lighting. Signs using exposed light sources, such as neon tubing, unshielded light bulbs or fluorescent tubes, or any interior lighted sign with transparent or translucent faces, may receive final approval only when the zoning administrator finds that the light from the sign does not cause unreasonable glare or annoyance to passersby or neighbors. A permit to construct a sign with exposed lighting may be issued conditionally, and is not final until the zoning administrator makes the necessary finding. The zoning administrator's inquiry shall not include consideration of the message content of the sign, and shall be restricted to the physical method of presentation of the message. Notwithstanding these provisions, the city council may adopt sign design guidelines that authorize the use of neon lighting in special districts. This rule does not apply to digital signs; digital sign standards are set forth in section 18.193.450, below.

Sec. 18.193.440 Changeable copy.

When changeable copy is allowed under the land use rules, it shall cover no more than 25

percent of the Basic Permittable Area and copy may not be changed more frequently than once per 24 hours, unless the land use rules state otherwise. This rule does not apply to the freeway-oriented sign for the Industrial Area portion of the Fremont Merged Redevelopment Project Area, or permitted digital signs.

Sec. 18.193.450 Digital sign standards.

When digital signs are allowed under land use rules, such signs shall be subject to the following:

(a) Size. The digital display area may not exceed 50 percent of the applicable Basic Permittable Area (BPA).

(b) Dwell Time. When allowed, digital signs shall display only “slide show” images (*i.e.*, a series of still images), each of which is on display for at least eight seconds. Digital display devices may not be used to create the appearance of moving images, or flashing, blinking or intermittent lighting. Transitions of images are to be gradual (*e.g.*, images shall fade in and out). There shall be no abrupt changes in images or lighting levels.

(c) No General Advertising. When allowed, digital signs may be used to display any combination of non-commercial messages and on-site commercial messages, but may not be used for off-site commercial messages or general advertising for hire.

(d) Cell Replacement. Digital signs must keep at least 98 percent of the display face in good working order at all times.

(e) Light Intensity. Digital signs shall not exceed a surface brightness of 5,000 nits when measured from the sign face at its maximum brightness during daylight hours and 500 nits from sunset to sunrise. However, when a digital sign is visible from legal residential dwelling units, then the maximum surface brightness shall not exceed 250 nits from sunset to sunrise.

(f) Glare. The zoning administrator may impose a condition that the display face be shielded on the sides, top and bottom (or any combination thereof) to reduce potential glare.

(g) Animated Copy. Unless otherwise specifically allowed, signs shall not contain animation, rolling or running letters or message, flashing lights or displays as part of the display.

Sec. 18.193.460 Service station standards.

In addition to the Basic Permittable Area (BPA) allowed for the applicable land use, the following signs and standards apply to establishments that sell motor vehicle fuel to end retail customers:

(a) Fuel Price Indicators. Signs which satisfy state law for fuel price indicators are allowed in addition to the BPA, but limited in size to the minimums required by state law.

(b) Additional Signs. If the service station offers auto-related services in addition to the sale of fuel, it may display up to two additional signs subject to approval of a Master Sign Program. If the service station has a convenience market, it may display two additional signs subject to approval of a Master Sign Program. The total number of additional signs shall not exceed four. In no event shall additional sign area exceed an amount equal to 25 percent of the BPA.

(c) Message Types. Signs under this section may not be used for general advertising for hire.

ARTICLE V. REGULATIONS APPLICABLE TO SIGNS FOR NON-RESIDENTIAL LAND USES.

Sec. 18.193.470. Applicability.

This article applies to signs in commercial and industrial land use designations and to the commercial uses in areas designated for mixed-use. It does not apply to signs on residential dwelling units or to signs in residential or open space land use designations.

Sec. 18.193.480. Temporary signs for non-residential uses.

(a) Temporary signs. Temporary signs are allowed in areas with commercial and industrial land use designations and commercial uses in areas designated for mixed use projects, subject to the approval of a sign permit and the following regulations:

- (1) Size: The total display area for temporary signs allowed at any one time is 25 percent of the applicable Basic Permittable Area (BPA) for permanent building mounted signs, up to a maximum of 60 square feet.
- (2) Display Time: Temporary signs are allowed in increments of 15 days but in no case may the number of days per calendar year that temporary signs may be displayed exceed a cumulative total of 45 days. Temporary real estate signs may be displayed during the sale period but must be removed within 15 days of the close of escrow.
- (3) Location: Temporary signs may be affixed to a door, window or building wall, but not to trees or other landscape structures.

(b) Temporary Signs Displayed During the Pre-election Period. In addition to the non-commercial signs allowed under the message substitution policy, temporary signs displaying any variety of noncommercial constitutionally protected speech may be displayed without a sign permit during the pre-election period as defined in Section 18.193.780 and may be freestanding or mounted on a building wall. On vacant sites, such signs may only be placed with an approved sign permit that incorporates the owner's consent. Since no buildings are located on the property, such signs may be either freestanding or fence-mounted. The maximum cumulative display area for temporary signs during the pre-election period is 100 square feet per site. Except as specifically provided herein, all other structural and locational rules apply. This subsection does not authorize private parties to place temporary signs on

city property or in the public right-of-way. Such signs are regulated by Chapter 18.194.

(c) Temporary Construction Signs. The following standards apply to construction projects that have received all necessary licenses, permits, and approvals. They do not apply to housing subdivision project signs which are regulated by Section 18.193.720.

- (1) Size: Signs authorized by this section shall be limited to 50 percent of the otherwise allowable Basic Permittable Area (BPA) when the project is complete.
- (2) Number: Maximum two per street frontage.
- (3) Height: Maximum eight feet above grade.
- (4) Display Time: Signs authorized by this article may be installed and displayed only during a time which begins when final building permits have been issued and ends when the project receives final inspection approval, certificate of occupancy, accepted notice of completion, or the functional equivalent of any of them.
- (5) Illumination: Not allowed.
- (6) Message Types: General advertising for hire is prohibited.
- (7) Physical Type and Location: Freestanding or attached to wall or fence.
- (8) Additional signage: In addition to the BPA, certain other signs may be displayed as necessary. These include warning signs, construction hour limitations, directional signs, and identification of locations and facilities.

Sec. 18.193.490. Permanent signs for non-residential land uses.

(a) Freestanding signs. Freestanding signs are subject to the following standards:

- (1) Maximum Number: No more than one freestanding sign per building frontage may be permitted. Transfer of sign area from one frontage to another is not permitted.
- (2) Type: Freestanding signs shall be monument signs unless traffic safety requires a pole sign. Additionally, a pole sign may be considered within the regional commercial land use designation.
- (3) Landscaping: All freestanding signs shall require automatic irrigated landscape at the base at least three feet in all directions.
- (4) Setback: All freestanding signs shall be set back from the street frontage property line by at least three feet and from all other property lines by at least five feet.

- (5) Cladding: Cladding that covers the pole is required in the case of pole signs. Cladding may not be used to display copy. Cladding shall be a complementary color to the main building on the site.
- (6) Height: Freestanding sign height is subject to the following standards:
 - (A) Monument signs shall have a maximum height of six feet, or eight feet with a minimum 18-inch high decorative base.
 - (B) Pole signs (when allowed) shall have a maximum height of 20 feet but in no case shall they exceed the height of the ridgeline or parapet of the building roof.
- (b) Wall signs. Wall signs, when allowed under the land use rules, are subject to the following standards:
 - (1) Number: Each establishment may display only one wall sign per building frontage or one per tenant space.
 - (2) Number Exception, Additional Wall Signs for Multi-Story Buildings: When a building has three or more floors that are not used for residential purposes, a maximum of one additional wall sign per building frontage is allowed. The additional wall sign may be mounted on the top floor level.
 - (3) Height: Wall signs shall not extend higher than the building wall upon which they are attached. Signs may not be placed on mansard or other roof forms.
 - (4) Coverage: Wall sign copy shall not occupy more than 75 percent of the length of the wall to which the sign is attached.
 - (5) Placement: Each sign shall be placed flat against the building wall. No wall sign may cover, wholly or partially, any required wall opening, such as a door, window, or fire escape.
 - (6) Projection: Wall signs cannot extend more than 12 inches beyond the face of the wall to which they are attached unless authorized through a Master Sign Program.
 - (7) Physical Types: Wall signs shall consist of painted or other flat panel type signs, or signs with individual letters directly affixed to the wall of a building. No “can signs” (*i.e.*, a metal/plastic box with an interior light fixture and plastic face) shall be allowed. Existing can signs with valid permits may be maintained and repaired.
- (c) Awning and canopy signs. Awning and canopy signs may be attached to or painted on the vertical edges of awnings, canopies, arcades, or similar features or structures in accordance with the standards found in Table 18.193.550 and the following standards:
 - (1) Height: Maximum 12 feet.

- (2) Clearance between sidewalk and bottom of awning or canopy: Minimum eight feet.
- (3) Clearance between canopy and curb: Minimum two feet.
- (4) Illumination: None allowed.

(d) Projecting signs. Projecting signs are only authorized in areas where specific sign design guidelines have been adopted and where the sign complies with the provisions of Table 18.193.550 and the following standards:

- (1) Number: A maximum of one projecting or suspended/blade sign per building or tenant space.
- (2) Size: Maximum 9 square feet per sign face.
- (3) Clearance between the sidewalk and the bottom of the sign: Minimum of eight feet.
- (4) Illumination: External only.

(e) Suspended or blade signs. Signs suspended beneath a covered walkway, awning, or canopy in conjunction with pedestrian walkways, are allowed where the sign complies with the provisions of Table 18.193.550 and the following standards:

- (1) Number: A maximum of one projecting or suspended/blade sign per building or tenant space.
- (2) Size: Maximum three square feet per sign face.
- (3) Clearance between sidewalk and bottom of sign: Minimum eight feet.
- (4) Illumination: External only.

(f) Marquee signs. Marquee signs are only allowed subject to a Master Sign Program and when in conformance with the provisions in Table 18.193.550 and following standards:

- (1) Number: Maximum one per site.
- (2) Qualifying Land Uses: Marquee signs are permitted for movie theaters, performance theaters, concert halls, convention centers, and similar uses characterized by human assembly and periodically changing programs.
- (3) Location: No portion of the changeable copy section of the marquee sign shall be higher than the eave line or parapet wall of a building.
- (4) Height: Maximum four feet in vertical dimension, excepting movie and performance theaters in which case, additional vertical dimension up to six feet may be authorized by a Master Sign Program.

- (5) Clearance between the sidewalk and the bottom of the sign: Minimum of eight feet.
- (6) Projections: A marquee sign may extend from the building to which it is attached but no closer than two feet from the curb line.
- (7) Changeable Copy: Changeable copy may occupy up to 75 percent of the area of a marquee sign.

(g) Window signs. Permanent window signs painted or otherwise adhered directly onto the interior or exterior of a window are subject to the provisions set forth in Table 18.193.550 and the following standards:

- (1) Height: Window signs shall not be mounted or placed on windows higher than the second story.
- (2) Size: Window signs may not occupy more than 20 percent of the total window area.

Sec. 18.193.500 Display of flags for non-residential land uses.

Legal non-residential uses in all land use designations may display flags at any time. Flags do not count toward the Basic Permittable Area. Only establishments with more than 30 feet of street frontage may erect flag poles, subject to the following provisions:

- (a) Maximum Number of Flag Poles. Three per street frontage.
- (b) Maximum Number of Flags. Not limited (see “maximum display area”).
- (c) Maximum Height of Flag Poles. The same as the allowable building height within the applicable zoning district.
- (d) Maximum Display Area for all Flags (measured on one side only):
 - (1) Lots under one acre 45 square feet
 - (2) Lots between 1-10 acres 72 square feet
 - (3) Lots over 10 acres 150 square feet

(e) Other Requirements. Flags may not be used to display off-site commercial images, or used for general advertising for hire. Flags may be mounted on poles or attached to walls via a projecting arm that holds the flag wherein the top of the projecting arm does not exceed the roof eave.

Sec. 18.193.510 Downtown District identification sign.

One regional serving sign may be permitted on a private property within a non-residential land use designation along Interstate I-880 to serve the Downtown District as defined in section 18.193.780. This sign shall be intended to create an identity marker for the downtown and may advertise the downtown and businesses located within the downtown area. Advertising on this sign by businesses located within the Downtown District shall not be considered off-site signage. The owner of the sign shall not prohibit regional or destination-serving downtown businesses from locating on the sign and the sign shall be designed to accommodate a variety of businesses in the Downtown District. This sign will require a conditional use permit approval by the planning commission. Prior to consideration of the conditional use permit, the city council shall adopt guidelines for such signage.

ARTICLE VI. SIGNS WITHIN COMMERCIAL LAND USE DESIGNATIONS AND MIXED-USE PROJECTS

Sec. 18.193.530. Applicability.

This article applies to signs within commercial land use designations and commercial uses within mixed-use projects.

Sec. 18.193.540440. Basic Permittable Area (BPA).

The Basic Permittable Area (BPA) is calculated by the street frontage multiplied by a factor stated in Table 18.193.550. Each street frontage creates its own BPA. Alleys and private driveways do not count as street frontage. BPA may not be transferred from one frontage to another.

Sec. 18.193.550. Permissible sign types and corresponding permit type.

Table 18.193.550 lists the permissible types of permanent signs within commercial land use designations as defined by the General Plan and the corresponding permitting requirement. As to mixed-use land uses, the table applies only to the commercial component of a mixed use project. If the underlying land use for the mixed-use project is not a commercial land use, the General Commercial category shall be utilized. All area allowances apply separately to each street frontage. Permanent signs should also adhere to any design guidelines applicable to a particular area or zone of the city as noted in Table 18.193.550 or those found within a Planned District zone.

Table 18.193.550**Permissible sign types and corresponding permit type within commercial land use designations**

Key		Permit Types	
BF	Building Frontage	CUP	Subject to conditional use permit
SF	Street Frontage	MSP	Allowable only with a Master Sign Program
sq.ft.	Square Feet	P	Permitted with sign/building permit
D	Digital sign for assembly use only	X	Prohibited

General Plan Land Use Designation (Location)	Building Mounted Signs					Freestanding Signs		
	Basic Permittable Area (BPA)	Walls & Windows	Awning & Canopy	Marquee	Projecting OR Suspended (Blade) ¹	Basic Permittable Area (BPA)	Pole	Monument
City Center ² & Downtown ³	1.3 x BF	P only surface / halo illumination	P	MSP / D	P	0.5 x SF Max 130 sq.ft.	X	P ⁴ D by MSP
Regional Commercial	1.7 x BF Max 300 sq.ft.	P	X	MSP / D	X	0.5 x SF Max 130 sq.ft.	CUP	P D by MSP
General Commercial	1.2 x BF	P	X	MSP / D	X	0.5 x SF Max 130 sq.ft.	MSP	P D by MSP
Centerville Town Center ⁵	1.2 & no greater than 1/3 width of storefront	P	P on vertical surfaces of awning	MSP	P	0.5 x SF Max 130 sq.ft.	MSP	P
Irvington Town Center ⁶	1.2 x BF	P (external illumination only)	P on vertical surfaces of awning	MSP	P	0.5 x SF Max 130 sq.ft.	MSP	P
Mission San Jose Town Center ⁷	1 X BF	P (wall signs limited to 10sf & external illumination only)	P on vertical surfaces of awning	MSP	P	0.5 x SF Max 100 sq.ft.	X	MSP

¹ Only one projecting or suspended/blade sign is permitted per tenant.² See City Center Plan + Design Guidelines³ See Downtown Community Plan + Design Guidelines⁴ Monument signs are only permitted on Mowry, Fremont, Paseo Padre and Walnut in the Downtown District⁵ See Centerville Sign Design Guidelines⁶ See Irvington Design Guidelines⁷ See Mission San Jose Design Guidelines

General Plan Land Use Designation (Location)	Building Mounted Signs					Freestanding Signs		
	Basic Permittable Area (BPA)	Walls & Windows	Awning & Canopy	Marquee	Projecting OR Suspended (Blade) ¹	Basic Permittable Area (BPA)	Pole	Monument
Niles Town Center ⁸	1 X BF	P (wall signs limited to 10 sq.ft. & external illumination only, excepting one exposed neon sign \leq 3 sq.ft.	P on vertical surfaces of awning	MSP	P	0.5 x SF Max 130 sq.ft.	X	X Directional signs for parking lots only
Warm Springs Town Center	1.2 x BF	P	X	MSP/D	P	0.5 x SF Max 130 sq.ft.	MSP	P D by MSP

Sec. 18.193.560. BPA - No street frontage.

When a legal commercial or mixed-use land use on the ground floor does not have street frontage, then the BPA is calculated by multiplying the sidewalk or tenant space frontage by the BPA factor which applies in that land use designation.

Sec. 18.193.570. Signage for multi-story buildings.

A multi-story building may be authorized building signage within the allowances provided by the Table 18.193.550. Such signs may be located on the ground floor or top floor but shall not be located on intervening floors. If the building contains multiple tenants, signage for tenants shall be provided via ground floor directories and freestanding monument signs.

Sec. 18.193.580. Master Sign Programs for multi-tenant buildings.

A Master Sign Program pursuant to Article X of this chapter is required to address sign placement among tenants and prospective tenants of multi-tenant buildings. Master Sign Programs must address prospective changes in tenancy over time, including the potential for additional tenants and tenant space divisions.

ARTICLE VIII. SIGNS WITHIN INDUSTRIAL LAND USE DESIGNATIONS**Sec. 18.193.590. Applicability.**

This article applies to signs within industrial land use designations as defined by the General Plan.

⁸ See Niles Design Guidelines and Regulations

Sec. 18.193.600. Basic Permittable Area (BPA).

The Basic Permittable Area (BPA) is calculated by the street frontage multiplied by a factor stated in Table 18.193.610. Each street frontage creates its own BPA. Alleys and private driveways do not count as street frontage. BPA may not be transferred from one frontage to another.

Sec. 18.193.610. Permissible sign types and corresponding permit type.

Table 18.193.610 lists the permissible types of permanent signs within industrial land use designations as defined by the General Plan and the type of permit process which applies. All area allowances apply separately to each street frontage. Permanent signs in a Planned District should also adhere to any applicable design guidelines.

Table 18.193.610**Permissible sign types and corresponding permit type within industrial land use designations**

Key		Permit Types	
BF	Building Frontage	CUP	Subject to conditional use permit
FF	Freeway Frontage	MSP	Allowable only with a Master Sign Program
SF	Street Frontage	P	Permitted with sign/building permit
sq.ft.	Square feet	X	Prohibited
D	Digital sign for assembly use only		

General Plan Land Use Designation (Location)	Building Mounted			Freestanding		
	Basic Permittable Area (BPA)	Wall & Window	Marquee	Basic Permittable Area (BPA)	Pole	Monument
Service & Tech Industrial	1 x BF Max 200 sq.ft.	P D by MSP	MSP / D	0.5 x SF Max 120 sq.ft.	MSP	P D by MSP
General Industrial	1 x BF Max 200 sq.ft.	P	X	0.5 x SF Max 120 sq.ft.	MSP	P
Industrial Sites with Freeway Frontage	0.5 x BF (parallel with FF) Max 200 sq.ft.	P	X	0.5 x FF Max 120 sq.ft.	CUP	P

Sec. 18.193.620. Signage for multi-story buildings.

A multi-story building may be authorized building signage within the allowances provided by Table 18.193.610. Such signs may be located on the ground floor or top floor but shall not be located on intervening floors. If the building contains multiple tenants, signage for tenants shall be provided via ground floor directories and freestanding/monument signs.

Sec. 18.193.630. Signage for multi-tenant buildings.

A Master Sign Program is required to address sign placement among tenants and prospective tenants. Master Sign Programs must address prospective changes in tenancy over time, including the potential for additional tenants and tenant space divisions.

Sec. 18.193.640. Freeway-oriented sign for Industrial Area portion of the Fremont Merged Redevelopment Project Area.

(a) Notwithstanding any other provision in this article, within the Industrial Area portion of the Fremont Merged Redevelopment Project Area, one freestanding sign may be installed and operated as a “slide show” type electronically changeable image sign adjacent to a freeway; such sign may be installed between 130 and 220 feet of freeway centerline and may be used for advertising only those establishments located within the boundaries of the Industrial Area or the display of noncommercial messages.

(b) As used in this section, “electronically changeable image sign” means a sign on which the displayed image may be changed by an electronic control system, so as to present to the viewing public a series of still images, similar to a traditional “slide show.” Such signs are sometimes called digital signs or electronic reader boards. This definition does not include display methods for a constantly moving image, such as television or a motion picture.

(c) Any sign allowed by this section shall be subject to the approval of a conditional use permit as set forth in Chapter 18.230, except that the city council shall be the approving body. The city council shall review the proposed sign for conformity with the following standards:

- (1) Sign height (including projections): 72 feet maximum
- (2) Sign width (perpendicular to freeway): 50 feet maximum
- (3) Sign width (parallel to freeway): 20 feet maximum
- (4) Sign illumination: LED (Light Emitting Diode) or functionally equivalent low energy usage
- (5) Sign image duration and display criteria for main screens:
 - (A) Image hold time shall be a minimum of eight seconds per still image or

Caltrans standard, whichever is greater.

(B) Transitions shall be gradual (e.g., images shall fade in and out). There shall be no abrupt changes in images or lighting levels.

(C) Screens shall be turned off between 1:30 AM and 5:30 AM daily. Remainder of the sign may remain lit.

(6) Aesthetic and other considerations:

(A) Any sign allowed by this section shall be compatible with the surrounding area, namely the form, proportion, architectural scale in proportion to other nearby buildings and structures, materials, surface treatment, and overall sign size;

(B) The location and placement of the sign shall not endanger motorists.

(C) The sign's lighting shall not cause hazardous or unsafe driving conditions for motorists, such as by glare or reflection.

(D) The sign shall not cover or blanket any prominent view of a structure or facade of historical or architectural significance.

ARTICLE VIII. SIGNS WITHIN OPEN SPACE LAND USE DESIGNATIONS

Sec. 18.193.650. Applicability.

This article applies to signs for legal uses on land designated open space as defined by the General Plan.

Sec. 18.193.660. Residential uses.

Signs for legal residential uses on land designated open space are subject to the rules applicable to residential buildings with less than 10 units set forth in Table 18.193.700.

Sec. 18.193.670. Non-residential uses.

The following sign types and regulations are permitted for non-residential uses within open space land use designations:

(a) Wall Signs. One square foot of sign area per foot of building frontage up to a maximum of 130 square feet.

(b) Freestanding monument signs. Freestanding monument signs may not exceed five feet in height or seven feet with decorative base with a maximum of 30 square feet of sign area per side and a maximum of two sides of sign copy.

(c) Temporary Signs. Temporary signs are allowed for non-residential uses within open space land use designations, subject to the following regulations:

- (1) Size: The total display area for temporary signs allowed at any one time is up to a maximum of 60 square feet.
- (2) Number: Maximum one per street frontage
- (3) Height: Maximum eight feet above grade.
- (4) Display Time: Temporary signs are allowed in increments of 15 days but in no case may the number of days per calendar year that temporary signs may be displayed exceed a cumulative total of 45 days. Temporary real estate signs may be displayed during the sale period but must be removed within 15 days of the close of escrow.
- (5) Location: Temporary signs may be affixed to a door, window or building wall, but not to trees or other landscape structures.
- (6) Illumination: Not allowed.

(e) Temporary Signs Displayed During the Pre-election Period. In addition to the non-commercial signs allowed under the message substitution policy, temporary signs displaying any variety of noncommercial constitutionally protected speech may be displayed without a sign permit during the pre-election period defined in Section 18.193.780 and may be freestanding or mounted on a building wall. On vacant sites, such signs may only be placed with an approved sign permit that incorporates the owner's consent. Since no buildings are located on the property, such signs may be either freestanding or fence-mounted. The maximum cumulative display area for temporary signs during the pre-election period is 100 square feet of the area allowed for wall signs. Except as specifically provided in this subsection, all other structural and locational rules apply. This subsection does not authorize private parties to place temporary signs on city property or the public right-of-way. Such signs are regulated by Chapter 18.194.

(f) Flags. Non-residential uses in open space land use designations may display flags at any time. Flags do not count toward Basic Permittable Area. Only establishments with more than 30 feet of street frontage may erect flag poles, subject to the following provisions:

- (1) Maximum Number of Flag Poles: Three per street frontage.
- (2) Maximum Number of Flags: Not limited (see "maximum display area").
- (3) Maximum Height of Flag Poles: The same as the allowable building height within the applicable zoning district.
- (4) Maximum Display Area for all Flags (measured on one side only):
 - (A) Lots under one acre 45 square feet

(B) Lots between 1-10 acres 72 square feet

(C) Lots over 10 acres 150 square feet

- (5) Other Requirements: Flags may not be used to display off-site commercial images, or used for general advertising for hire. Flags may be mounted on poles or attached to walls via a projecting arm that holds the flag wherein the top of the projecting arm does not exceed the roof eave.

Sec. 18.193.680. Prohibited signs in open space land use designations.

- (a) Illuminated signs.
- (b) Freestanding pole signs.
- (c) Off-site commercial and general advertising for hire message types.

ARTICLE IX - SIGNS FOR RESIDENTIAL LAND USES WITHIN ALL LAND USE DESIGNATIONS

Sec. 18.193.690. Applicability.

This article applies to all legal residential land uses, regardless of land use designation. However, it does not apply to “hospitality” type uses, such as hotels, motels, and “bed and breakfast” establishments, which are regulated as commercial uses. Nor does it apply to unsold housing units in tract housing developments. The rules stated in this article do not override private party contracts, such as rental agreements or leases. Accessory dwelling facilities, such as detached guest houses, secondary dwelling units, separate studios or workshops, and similar uses, do not have separate sign rights; rather, they share the sign rights of the principal unit, as determined by the private owner. Regulations for legal non-residential land uses in residential land use designations are set forth in the commercial and mixed-use rules.

Subject to owner’s consent, State law, and the following rules, signs may be mounted and displayed on all legal dwelling units at all times and in all zones. These rules are adopted to balance the interests in free speech and expression by sign display against the interests in maintaining quiet, peaceful and visually uncluttered residential neighborhoods.

Sec. 18.193.700. Permissible sign types and standards for residential buildings.

Table 18.193.700 lists the permissible types of permanent signs and standards for residential buildings within residential land use designations as defined by the General Plan. All area allowances apply separately to each dwelling unit, building or building complex, but do not apply to accessory buildings except a management office. Additionally, illuminated or non-illuminated address indicators and warning signs are exempt from these standards. Signs that contain maps that identify unit locations within multi-unit developments are also exempt from these standards.

Table 18.193.700**Table of permissible sign types and standards for residential buildings**

	Buildings with ≤ 10 units (including single-family dwellings)	Buildings with ≥ 11 units	Management Office
Allowed sign area	6 sq. ft. per unit (maximum 60 sq. ft. per complex)	60 sq. ft. per building (maximum 130 sq. ft. per complex)	12 sq. ft.
Flag Pole(s)	One, no higher than 30 ft. above grade	As provided in section 18.193.500	n/a
Flag(s)	15 sq. ft. measured on one side	As provided in section 18.193.500	n/a
Physical Types	Freestanding pole or stake signs when setback 5 feet from back of sidewalk or property line where no sidewalk exists and under 5 feet in height.		
	Affixed to a door, window or building wall, but not to a tree, fence or other landscape structure. All signs shall be mounted below the roof eave or parapet wall.		

Sec. 18.193.710. Temporary signs displayed during the pre-election period.

In addition to the non-commercial signs allowed under the message substitution policy, temporary signs displaying any variety of constitutionally protected non-commercial speech may be displayed without a sign permit during the pre-election time period defined in Section 18.193.780 and may be freestanding or mounted on a building wall. On vacant sites, such signs may only be placed with an approved sign permit that incorporates the owner's consent. Since no buildings are located on the property, such signs may be either freestanding or fence-mounted. The maximum cumulative display area for temporary signs during the pre-election period is 15 square feet per residential unit. So long as the total cumulative area limit is not exceeded, there is no limit on the number of temporary signs displayed on legal residential uses during the pre-election period. This subsection does not authorize private parties to place temporary signs on city property or the public right-of-way. Such signs are regulated by Chapter 18.194.

Sec. 18.193.720 Temporary signs related to housing under construction or for sale.

This section applies to housing projects for four or more dwelling units that are under construction or for sale during their initial sales campaign.

(a) On-site construction or sales office signage. The following standards apply to on-site construction or sales office signage:

- (1) Size: Maximum of 32 square feet (measured on one side).
- (2) Number: Maximum one per street frontage.
- (3) Height: Maximum eight feet above grade.

- (4) Display time: Signs authorized by this article may be installed and displayed only during a time which begins when final building permits have been issued and ends when the project receives final inspection approval, certificate of occupancy, accepted notice of completion, or the functional equivalent of any of them.
- (4) Illumination: Not allowed.
- (5) Message types: General advertising for hire is prohibited.
- (6) Physical type and location: Freestanding or attached to wall or fence.
- () Flags: Maximum of five flags per housing project wherein the total area of all flags does not exceed 45 square feet (measured on one side only).
- (7) Additional signage: In addition to the BPA, certain other signs may be displayed as necessary. These include warning signs, construction hour limitations, directional signs, and identification of locations and facilities.

(b) Individual dwelling units. For dwelling units where the sale has not yet closed, address indicators and one sign per dwelling unit, not exceeding six square feet shall be allowed.

(c) Off-site signs. A total of four off-site signs promoting sales at the development may be installed and displayed during the initial sales campaign for the project. The area of each sign shall be limited to 32 square feet (measured one side) when located on property not used or developed with residential uses and four square feet when located on property used for residential purposes. Such signs may not be displayed after the sale of the last available unit has closed.

Sec. 18.193.725 Permanent neighborhood identification signs.

Permanent signs identifying a neighborhood or development project may be installed on land owned by the developer or the homeowners association, or other private land with owner's consent subject to approval of a Master Sign Program. The following standards apply to permanent neighborhood identification signs:

- (1) Maximum number: One or (one pair) per major street entrance.
- (2) Maximum height: Six feet.
- (3) Maximum size: 18 square feet of total sign area. Low architectural walls or monument bases are not included in the sign area.
- (4) Illumination is permitted, excepting therefrom exposed lighting sources.
- (5) Location: Entry signs and monuments should generally be installed outside of the public right-of-way and any utility easements.
- (6) Type: Monument or wall-mounted.

Sec. 18.193.730. Prohibited signs in residential land use designations.

The following are prohibited within residential land use designations or on property used exclusively for residential purposes:

- (a) General advertising for hire.
- (b) Messages outside First Amendment protection and those prohibited by law.
- (c) Illumination, except as otherwise allowed by this chapter.
- (d) Animated signs.
- (e) Signs on vehicles parked on residential properties, excluding any vehicles parked in an enclosed garage.
- (f) Signs containing commercial messages except for real estate signs (as described in Civil Code 713) and garage sale signs.
- (g) Signs advertising home-based occupations unless the unit is designated as a live-work unit in a mixed use project.

ARTICLE X. MASTER SIGN PROGRAM

Sec. 18.193.740. General.

General. In accordance with the provisions herein, signs may be allowed in commercial, industrial and residential designations and for quasi-public and public uses in any land use designation as part of a comprehensive Master Sign Program, notwithstanding that such signs do not conform to all the specific regulations applicable in general to freestanding signs, building signs, and other signs allowed pursuant to this chapter. Master Sign Programs are required to ensure that adequate signage is provided to all prospective tenants within multi-tenant buildings. Exceptions to the general sign regulations may include, but are not necessarily limited to, the number of signs, height, location, sign area and illumination; provided, however, that notwithstanding the authority of the zoning administrator to approve such specific exceptions, a Master Sign Program shall be in substantial compliance with the general sign regulations, and the zoning administrator or other approval authority shall find that each and all such exceptions will accomplish the general objectives of these regulations. A Master Sign Program may not be used to display sign types that are prohibited. Master Sign Programs are applicable to multiple establishments within a single development only.

Sec. 18.193.750 Application

In addition to basic sign application requirements, an application for a Master Sign Program shall be accompanied, by the following documents:

- (a) Coverage area: A map, drawn to scale, delineating the site proposed to be included within the Master Sign Program.

(b) Building elevations: Drawings and/or sketches indicating the exterior surface design details of the buildings upon the site.

(c) Signing: Drawings, drawn to scale, indicating the size, materials, method and intensity of illumination, height, color, sign area and general location of all signs both existing and proposed.

Sec. 18.193.760 Findings required.

The zoning administrator shall, prior to the approval of a Master Sign Program, make the following findings in regard to the design of the signs to be maintained upon the site:

(a) Architectural design: That each sign will visually relate the sign to the architectural style of the main building or buildings upon the site, and to the extent not inconsistent with such style, that the sign(s) will be compatible with the style or character of existing improvements upon lots adjacent to the site; provided, that signs maintained upon any isolated commercial site located within and integral with a predominantly residential area are designed to be compatible with the residential character of such area.

(b) Relationship to buildings: That consistent with such architectural design, each sign is designed to incorporate at least one of the predominant visual elements, such as type of construction material, color or other design details. That any signs maintained upon a building have dimensions which are proportional to and visually balanced with the building facade of the side of the building upon which such sign is maintained.

(c) Relationship to other signs: That each sign is well related to all other signs maintained on the site that is the subject of the Master Sign Program by the incorporation of not less than four of the following seven identical elements:

- (1) Materials;
- (2) Letter style of sign copy;
- (3) Color;
- (4) Illumination;
- (5) Method used for structural support or attachment;
- (6) Technical details of sign construction;
- (7) Shape of entire sign and its several components.

(d) Sign copy. That the sign copy for each sign is either:

- (1) Composed entirely of individual letters, a logo or symbol; or
- (2) The sign copy, exclusive of decorative color or other background material, does not exceed forty percent of the sign area.

(e) Sign area for signs affixed to buildings: That the sign area of all sign(s) affixed to a building does not exceed ten percent of the building facade upon which such sign(s) are maintained.

(f) Signs affixed to buildings above the eave line: That any sign which is maintained above the eave line is designed to be an integral feature of the building architecture.

(g) Signs affixed to buildings below a canopy, arcade, marquee or other similar building projection: That the sign does not contain more than three square feet of sign area and is maintained on a building frontage proximate to an entrance to the building.

Sec. 18.193.770 Approval.

The zoning administrator may attach appropriate and reasonable conditions to any approval of the Master Sign Program, including, but not limited to, conditions which alter sign configurations, reduce the sign area, relocate signs upon the lot or buildings, or require other design modifications.

ARTICLE XI. DEFINITIONS

Sec. 18.193.780. Definitions.

See Section 18.25.2600 for definitions relating to signs in this chapter 193 and chapter 194.

SECTION 2. FMC TITLE 18, CHAPTER 18.25, SIGNS, DEFINITIONS RELATING TO, REPEALED AND REPLACED.

Fremont Municipal Code Section 18.25.2600, Signs, definitions relating to, is repealed and replaced as follows:

Sec. 18.25.2600, Signs, definitions relating to.

- (a) **“A-frame Sign”** shall mean a portable sign capable of standing without support or attachment with a frame in the shape of the letters A, H or T, or functionally equivalent devices.
- (b) **“Administrator”** shall mean the city manager or his/her designee is authorized to enforce and interpret this chapter unless otherwise provided by the city council.
- (c) **“Animated Sign”** shall mean a sign that displays visual images that change more often than one time in any 24 hour period, or images that move or appear to move, regardless of the method by which the visual change is effected. This definition does not include traditional barber poles, hand-held signs, personally attended signs, commercial mascots, scoreboards, or signs which merely display time or temperature or other factual information which is by its nature constantly changing. Animated signs include electronic message signs, sometimes called electronic readerboards, LED signs, digital signs, and other functionally equivalent devices.

- (d) **“Assembly Uses”** shall mean those land uses characterized by human assembly and periodically changing programs, such as meeting halls, convention centers, theaters (both live and film presentation), night clubs, and religious facilities.
- (e) **“Awning”** shall mean any structure made of flexible fabric or similar material covering a frame attached to a building, regardless of whether it can be raised to a position flat against the building when not in use.
- (f) **“Awning Sign”** shall mean a visually communicative element placed upon an awning.
- (g) **“Banner”** shall mean any temporary sign of lightweight fabric or similar material that is mounted on a building wall (or construction fence if located at a construction site) at one or more edges for the purpose of attracting attention and/or displaying a visually communicative image. Flags and street banners are not within this definition.
- (h) **“Basic Permittable Area (“BPA”)** shall mean the cumulative total display area of all permanent signs subject to a permit requirement for a non-residential land use, parcel or establishment. The number is determined by street frontage multiplied by a factor which is stated in the land use rules. Additional display area may be allowed based on particular land use. Address indicators and flags are not counted as part of the BPA. Depending on land use rules, the BPA is also used to calculate allowable display area for temporary signs for non-residential land uses.
- (i) **“Billboard”** shall mean a permanent structure sign in a fixed location, that meets one or more of the following criteria:
 - (1) Is intended to be used for, or is actually used for, the display of general advertising or general advertising for hire, regardless of whether the display of the message is in exchange for cash or any other consideration, and regardless of whether a given message is categorized as commercial, noncommercial, or otherwise; or
 - (2) Is intended to be used for, or is actually used for, the display of commercial advertising messages which pertain to products or services which are offered at a different location, also known as “off-site commercial” messages; or
 - (3) Constitutes a separate principal use of the property, in contrast to an auxiliary, accessory or appurtenant use to the principal use of the property.
- (j) **“Billboard Vehicle”** shall mean any wheeled vehicle, whether motorized or not, used primarily for the display of general advertising or general advertising for hire, by means of traversing or parking upon any public street or public parking space in a manner that the advertising image(s) on the vehicle are visible from any portion of the public right-of-way. Also known as "sign truck" or "billboard truck" or “mobile billboard.” This definition does not apply to vehicles displaying images related to the same business or establishment of which the vehicle is an operating instrument, and does not apply to vehicles which are on the public road for the primary purpose of transportation, such as taxis and buses, even if such vehicles display general advertising.

- (k) **“Canopy”** shall mean any structure other than an awning made of flexible fabric or similar material covering a metal frame supported by the ground or sidewalk.
- (l) **“Changeable Copy Sign”** shall mean a sign displayed on the premises of a land use characterized by human assembly and periodically changing programs, when such sign is constructed or designed to allow for periodic changes of copy, and for which the copy is changed not more than once each 24 hour period. Examples include program signs for auditoriums, theaters, religious facilities, convention centers. Signs used to display periodically changing prices for motor fuels are also within this definition. This definition does not include animated signs or electronic reader board signs.
- (m) **“City Property and Public Rights-of-Way”** shall mean land or other property in which the City of Fremont holds a present right of possession and control, plus all public rights of way, regardless of ownership. City property includes any: curbstone, lamppost, pole, bench, hydrant, bridge, wall, tree, sidewalk, or structure in or upon any public street, alley, public right-of-way, or any other public property.
- (n) **“Commercial Message”** shall mean a visually communicative image on a sign, or a portion of a sign, which proposes or encourages an economic transaction, or which concerns the economic interests of the sign sponsor and/or the viewing audience.
Contrast: non-commercial message.
- (o) **“Commercial Mascot”** shall mean a live person or animal attired or decorated with commercial insignia, images or symbols, and/or holding signs displaying commercial messages. Includes sign twirlers and sign clowns, but does not include hand-held signs displaying noncommercial messages.
- (p) **“Construction Sign”** shall mean a temporary sign displayed on the site of a construction, remodeling, or major landscaping project during the period of time of actual construction activity.
- (q) **“Copy”** shall mean the visually communicative elements of a sign display, including any lettering, numerals, or graphic images.
- (r) **“Courtesy Sign”** shall mean Signs, up to four square feet in area, integral with a commercial, industrial, public or quasi-public building, and located proximate to the entrance of a building frontage in regular use by customers or the public, containing appurtenant sign copy which identifies, as a courtesy display to visitors to the building, items such as credit cards accepted, restaurant menus, directories, hours of operation and “Open” or “Closed” signs, as well as “Help Wanted” signs and signs indicating a security system in use;
- (s) **“Digital Sign”** shall mean any sign which uses digital technology to present the image to the public. The term includes LCD (liquid crystal display), LED (light emitting diode), plasma displays, projected images, and all other functionally equivalent display technologies. Also known as commercial electronic variable message sign or changeable electronic message sign.

- (t) **“Display Face”** shall mean that portion of a sign upon which the communicative copy or graphic image is mounted or displayed. Also known as “sign face” or simply “face.”
- (u) **“Directional Sign”** shall mean any sign, other than a highway marker or any sign erected and maintained by public authority or a public utility, the principal purpose of which is to direct persons to a place, structure, or activity.
- (v) **“Downtown District”** shall mean that area bounded by Fremont Boulevard, Mowry Avenue, Paseo Padre Parkway and Walnut Avenue.
- (w) **“Drive-through Service Sign”** shall mean a sign mounted on the premises of an establishment which provides services to customers or clients while they are in their vehicles, including but not limited to drive-through restaurants, drive-through banking facilities, library drop-offs, *etc.*
- (x) **“Establishment”** shall mean any legal use of land, other than long-term residential, which involves the use of structures subject to the Building Code and the presence of human beings on the premises more than 20 hours per week. By way of example and not limitation, this definition includes businesses, factories, farms, schools, hospitals, hotels and motels, offices and libraries but does not include single-family homes, mobile homes, residential apartments, residential care facilities, or residential condominiums. The term also does not include facilities which are normally unattended, such as power transformer stations, broadcasting towers, water towers and vending machines.
- (y) **“Exempt Sign”** shall mean a sign which may be legally displayed, erected or maintained, but is not subject to a sign permit. Exemption from the sign permit requirement does not mean exemption from other applicable planning, zoning and building permit requirements. Exempt signs may still be subject to rules about size, height, setback, illumination, *etc.*
- (z) **“Face Change”** shall mean a change in color, material, copy, graphics, or visual image that requires the installation of a new or modified sign face, but which does not involve any change to an existing sign structure or mounting device. Does not include changeable copy signs.
- (aa) **“Flag”** shall mean any fabric, banner, or bunting containing distinctive colors, patterns, or design that displays the symbol(s) of a nation, state, local government, company, organization, belief system, idea, or other meaning. The term is not restricted to official or governmental flags.
- (bb) **“Flag Pole”** shall mean a pole used for display of one or more flags.
- (cc) **“Freestanding Sign”** shall mean a permanent structure sign that is self-supporting in a fixed location and not attached to a building. Freestanding signs are of two general types: monument (sometimes called “ground sign”) and pole. Flag poles are not within this definition.

(dd) “Freeway Frontage” shall mean a property that directly abuts one of the following freeways: I-680, I-880 and State Route 84 from the Dumbarton Bridge to I-880.

(ee) “Garage Sales Sign” shall mean a sign promoting the occasional non-business public sale of used, secondhand or homemade household goods, conducted from a residential use. Does not include any event for which a business license or an auctioneer's license is required. Includes estate, yard and moving sales and functionally similar events.

(ff) “General Advertising” shall mean the business or enterprise of making a sign display face available to a variety of advertisers, whether they be businesses or other establishments. This definition applies even when the display face is donated or made available at a reduced rate or for "in kind" consideration. Also known as "general advertising for hire." General advertising is in contrast to self-promotion advertising.

(gg) “Government Sign” shall mean any sign erected and maintained by or required by the City, county, regional, state, or federal government, or government transportation or transit agencies, for the purpose of providing official governmental information to the general public, including but not limited to: traffic direction, City entrance, or for designation of direction to any school, hospital, historical site, or public service, property or facility. Also includes a sign used for government speech.

(hh) “Hand-held Sign” shall mean a sign which is physically held by a person, or attached to the body of a person or animal, and which displays noncommercial image(s). The term does not include apparel or aspects of personal appearance, or in the case of animals, leashes, muzzles, bridles or other animal control devices, or “guide dog” or “service dog” indicators. Commercial mascots are not within this definition.

(ii) “Illuminated Sign” shall mean a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign. The term includes signs made from neon or other gas tube(s) that are bent to form letters, symbols, or other shapes

(jj) “Marquee” shall mean a permanent roof-like structure or canopy made of rigid materials supported by and extending from the facade of a building.

(kk) “Marquee Sign” shall mean a changeable copy sign advertising an event, performance, service, seminar, conference, or show, and displayed on a marquee.

(ll) “Master Sign Program” shall mean a comprehensive scheme for a consistent visual theme applicable to multiple establishments located in a single development project. Such programs often include standardized fonts, lighting, backgrounds, other elements of graphic design, and placement rules. Also known as “Sign Program.”

(mm) “Mobile Billboard” shall mean any vehicle or wheeled conveyance, whether motorized or not, which carries, conveys, pulls, or transports any sign or billboard for the purpose of general advertising for hire. Also known as “sign truck.”

(nn) “Monument Sign” shall mean a freestanding sign constructed upon a solid-appearing base or pedestal.

(oo) “Name Plate” shall mean a sign that identifies the occupant and/or address.

(pp) “Neighborhood Identification Sign” shall mean a sign that identifies a generally recognized neighborhood.

(qq) “Nits” shall mean the measurement of surface brightness or candela per square meter (cd/m^2).

(rr) “Non-conforming Sign” shall mean a sign that was lawfully erected but which does not conform to current law. The term does not apply to signs that were originally erected in violation of then current law.

(ss) “Noncommercial Message” shall mean the copy on a sign which concerns non-commercial matters, typically including commentary or advocacy on topics of public debate and concern, such as, by way of illustration and not limitation, religion, politics, art, and social commentary. This definition shall be construed and interpreted in light of relevant court decisions. Noncommercial messages do not have a location factor, such as on-site or off-site. Contrast: commercial message.

(tt) “Non-communicative Aspects” shall mean those aspects of a sign which are not directly communicative, such as the physical structure when not figurative or symbolic, mounting device, size and height, setback, illumination, spacing, density, scale and mass relative to other structures, *etc.*

(uu) “Off-site or Off-premise Sign” shall mean a sign that identifies, advertises or attracts attention to a business, product, service, event or activity sold, existing or offered at a different location (subject to the qualifications stated in the definition of “On-Site Sign”). The off-site/on-site distinction applies only to commercial messages.

(nn) “On-site or On-premise Sign” shall mean any sign or portion thereof that identifies, advertises, or attracts attention to a business, product, service, event or activity that is sold, existing or offered upon the same property or land use as the sign. The off-site/on-site distinction applies only to commercial messages. In the case of multiple-tenant commercial or industrial developments, a sign is considered “on-site” whenever it is located anywhere within the development. In the case of a duly approved Master Sign Program, a sign is considered “on-site” whenever it is placed at any location within the area controlled by the program.

(oo) “On-site Advisory Sign” shall mean a sign which provides information for the convenience of the public, such as services available, direction or courtesy information. Typical examples include store entrances, walk-up windows and self-service operations, hours of operation, handicapped accessibility, restrooms, and directional signs for vehicles, bicycles, and pedestrians. Motor fuel price signs are not within this definition. Signs whose main function is business identification or commercial messages are not within this definition.

(pp) “Pennant” shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a rope, wire, or string, usually in a series,

designed to move in the wind and attract attention. Flags are not within this definition. Traditional pennants are triangular or “swallow tail” in form, and are longer in the fly than in the hoist or attachment.

(qq) “Personally attended” shall mean a a live person is physically present with five feet of the sign at all times.

(rr) “Pre-Election Period” shall mean that period of time which begins 45 days before, and ends 15 days after any primary, general or special election in which voters in Fremont may vote.

(ss) “Pole Sign” shall mean a freestanding sign supported by one or more metal or wood posts, pipes, or other vertical supports. Includes signs whose supporting poles or pylons are covered by cladding. This definition applies to pole signs even when the poles have been covered by cladding.

(tt) “Projecting Sign” shall mean any sign which is attached to the face of a building and projects more than 18 inches from the face.

(uu) “Portable Sign” shall mean a sign not permanently attached to the ground or other permanent structure, but is instead designed to be transported or easily moved, including, but not limited to, signs designed to be transported by means of wheels; A-frames and balloons. Not within this definition: banners, pennants, mobile billboards, commercial mascots, vehicle signs.

(vv) “Primary Building Face” shall mean that wall of a building which contains the principal entrance or entrances to the building. If there are principal entrances in more than one wall, the longest of the walls in which principal entrances are located shall be the primary building face. “Primary building face” shall include not only the wall itself but all doors, windows, or other openings therein and projections therefrom.

(ww) “Public Property” shall mean land or other property where the city is the owner or has the present right of possession and control including areas that are either designated as public rights-of-way or have long been used as public rights-of-way.

(xx) “Real Estate Sign” shall mean any temporary sign displaying copy which concerns a proposed sale, rent, lease or exchange of real property. All signs described in Civil Code 713 are within this definition. This definition does not include occupancy signs at establishments offering transient occupancy, such as hotels, motels and “bed and breakfast” facilities.

(yy) “Residential Sign” shall mean a sign displayed on a legal residential land use, not including establishments offering temporary or transient occupancy, such as hotels, motels, inns, bed and breakfast establishments, etc.

(zz) “Roofline” shall mean the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

(aaa) “Roof Sign” shall mean a prohibited type of signage that would be located on a roof

of a building or having its major structural supports attached to a roof.

(bbb) “Sign” shall mean any device displaying visual images, graphics, symbols, and/or written copy for the primary purpose of communicating with the public, when such image is visible from any exterior public right-of-way. The term includes any moving part, lighting, sound equipment, framework, background material, structural support, or other part thereof. A display, device, or thing need not contain lettering to be a sign. Notwithstanding the generality of the foregoing, the following are not within this definition:

- Aerial signs or banners towed behind aircraft.
- Automated Teller Machines (ATMs) when the lettering is not wider than the machine, and the device is not used for general advertising.
- Architectural features: Decorative or architectural features of buildings (not including lettering, trademarks or moving parts), which do not perform a communicative function (examples: color stripes around an office building or retail store).
- Foundation stones and cornerstones.
- Grave markers, grave stones, headstones, mausoleums, shrines, and other markers of the deceased.
- Historical plaques.
- Holiday and cultural observance decorations on private residential property which are on display in season for not more than 45 calendar days per year (cumulative, per dwelling unit) and which do not include commercial advertising messages.
- Inflatable gymnasiums: Inflatable, temporary, moveable, gymnasium devices commonly used for children’s birthday parties, and similar devices. Also called “party jumps.”
- Interior graphics or signage: Visual communicative devices that are located entirely within a building or other enclosed structure and are not visible from the exterior thereof, or located on the inside of a building and at least three feet from the window.
- Manufacturers’ marks on tangible products, which identify the maker, seller, provider or product, and which customarily remain attached to the product even after sale.
- Mass transit graphics: Graphic images mounted on duly licensed and authorized mass transit vehicles that legally pass through the city.
- Menu boards not exceeding four square feet per display area at establishments serving food to customers who eat on the premises, or eight square feet at establishments where the menu board serves customers who “take out” their food.
- Merchandise on public display and presently available for purchase on-site.
- Newsracks and newsstands.
- Overhead signs: Graphic images which are visible only from above, such as those visible only from airplanes or helicopters, when such images are not visible from the

street surface or public right-of-way.

- Search lights and spot lights when used as part of a search and rescue or other emergency service operation; this exclusion does not apply to search lights or klieg lights used as attention attracting devices for commercial or special events.
- Shopping carts, golf carts, horse drawn carriages, and similar devices; any motorized vehicle which may be legally operated upon a public road is not within this exclusion.
- Symbols embedded in architecture: Symbols of non-commercial organizations or concepts including, but not limited to, religious or political symbols, when such are permanently integrated into the structure of a permanent building which is otherwise legal; by way of example and not limitation, such symbols include stained glass windows on religious facilities, carved or bas relief doors or walls, bells, religious statuary, *etc.*
- Vehicle and Vessel Insignia: On-street legal vehicles and properly licensed watercraft and aircraft, license plates, license plate frames, registration insignia, non-commercial messages, messages relating to the business of which the vehicle or vessel is an instrument or tool (not including general advertising) and messages relating to the proposed sale, lease or exchange of the vehicle or vessel.
- Vending machines and product dispensing devices which do not display offsite commercial messages or general advertising messages.
- Window displays: The display, in a store window, of merchandise which is available for immediate purchase.

(ccc) “Sign Area” shall mean the display surface area, including any background or backing constructed, painted or installed as an integral part of the sign, as follows:

1. Where separate backing or individual cutout figures or letters are used, the area shall be measured as the area of the smallest polygon, and not to exceed six straight sides which will completely enclose all figures, letters, designs and tubing which are a part of the sign.
2. Where separate or individual component elements of a sign are spaced or separated from one another, each component element shall be considered a separate sign.
3. Total sign area shall be measured to include all sides of a double-faced or multi-sided sign. However, flag area is measured one side only.

(ddd) “Sign Height” shall mean the distance from the sidewalk or roadbed grade nearest the base of the sign to the top of the highest element of the sign. Where there is no sidewalk, the grade of the roadbed nearest the sign shall be used.

(eee) “Sign Permit” shall mean a written authorization from the City to erect, maintain or display a sign. A building permit issued for a sign is also considered a sign permit for that sign.

(fff) “Sign Structure” shall mean a structure which supports or is intended to support a

sign. A sign structure may or may not be incorporated as an integral part of a building. Any sign which is within the definition of “structure” in the Building Code is also within this definition.

(ggg) “Special Public Events” shall mean events such as public street closures, parades and demonstrations.

(hhh) “Street Frontage” shall mean the lineal distance of the property parallel to the street right-of-way.

(iii) “Subdivision Sign” shall mean a sign concerning real property which has been divided into five or more lots, parcels or units for sale, lease or rent.

(jjj) “Suspended Sign” shall mean a sign hung from beneath an awning, canopy, covered walkway or arcade. This category also includes blade signs.

(kkk) “Temporary Sign” shall mean a sign which, by its physical nature, is not suitable for long term display. Temporary signs are typically made of lightweight or flimsy material, and can be easily installed or removed with ordinary hand tools. Any sign which is within the definition of “structure” in the Building Code is not within this definition.

(lll) “Time/Temperature Sign” shall mean an electronic or mechanical device which shows time and/or temperature, but contains no business identification or advertising.

(mmm) “Traditional Public Forum” shall mean the surfaces of city-owned streets, the surfaces of city-owned public parks (not including cemeteries), public sidewalks which are connected to the city’s main pedestrian circulation system, and the surface of the pedestrian area immediately surrounding city hall (not including the interior thereof). In consultation with the city attorney, the zoning administrator shall interpret this term for compliance with court decisions.

(nnn) “Visibility Triangle” shall mean that portion of both public and private property at any corner bounded by the curb line or edge of a roadway of the intersecting streets and a line joining points on the curb or edge of the roadway 15 feet from the point of intersection of the extended curb lines or edges of the roadway.

(ooo) “Wall Sign” shall mean any sign attached to, erected against or painted upon the wall of a building or structure, the face of which is in a single plane parallel to the plane of the wall. Wall signs also include signs on a false or mansard roof.

(ppp) “Warning Sign” shall mean a sign under 2 square feet in area (unless legally required to be larger) intended to notify persons of hazards. Examples of warning signs include: “Beware of dog” “No trespassing” “High Voltage.” Such signs are considered exempt signs.

(qqq) “Window Sign – Permanent” shall mean a sign displayed within three feet from the inside of the window face or on the window face, and that is visible from a public street or walkway, on display without change in image for more than 45 days per calendar year.

(rrr) **“Window Sign- Temporary”** shall mean a sign displayed within one foot of a window face, and that is visible from a public street or walkway, on display less than 45 days per calendar year.”

SECTION 3. FMC TITLE 18, SECTION 18.180.090, REPEALED AND REPLACED

18.180.090 Nonconforming signs

See section 18.193.205 regarding provisions for nonconforming signs.

SECTION 4. CEQA.

The city council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed in compliance with CEQA regulations.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The city council of the City of Fremont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 7. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933(c), once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those city council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those city council members voting for and against the ordinance.

* * *

The foregoing ordinance was introduced before the city council of the City of Fremont at the regular meeting of the city council, held on the ___th day of ___, 2013 and finally adopted at a

regular meeting of the city council held on the ____th day of ____, 2013 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

Assistant City Attorney